



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,587	04/09/2001	Pavel N. Laptev	SPUTT-56141	7932

7590

06/10/2004

ELLSWORTH R. ROSTON, ESQ.  
FULWIDER PATTON LEE & UTECHT, LLP  
HOWARD HUGHES CENTER  
6060 Center Drive, Tenth Floor  
Los Angeles, CA 90045

EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 06/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance  
With 37 CFR 1.192(c)**

**Application No.**

09/829,587

**Applicant(s)**

LAPTEV, PAVEL N.

**Examiner**

Rudy Zervigon

**Art Unit**

1763

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 29 March 2004 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☒ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☐ A single ground of rejection has been applied to two or more claims in this application, and
  - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
  - (b) ☐ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

*The brief, filed in response to the first notice of defective brief, again contains non-appealable subject matter on the same pages 2-3 (MPEP 1201) as the original brief. The brief includes a statement that the pending claims do not stand or fall together, but fails to present reasons in support thereof as required under 37 CFR 1.192(c)(7). MPEP § 1206. Further, it is apparent (p.16) that Applicant is confused concerning why/how pending claims are argued as groups that do/do not stand or fall together. It is not the collection of claims rejected under specific references that are considered "groups", but it is the argued patentable content of each claim and how this content varies among claims (see 37CFR 1.192(c)(7-8)). Applicant's grouping of claims in subsequent pages of the brief is not supported by Applicant's statements that merely point out differences in what the claims cover. Applicant's simple reiteration of the content of each claim as supporting rationale as to why the claims do not stand or fall together fails to present reasons in support thereof. Further, Applicant's "concise statement of the issues" is not concise. For example, should the rejection of claims 1-4, 7-9, 11, 14-16, 19-21, 43, 44, 45, 46, 47, and 50, rejected under 35 U.S.C. 102(b) as being anticipated by Koshimizu (USPat. 5,980,687) and demonstrated by Mountsier et al (USPat. 5,810,933) be sustained?*

*Rudy Zervigon 6/8/4*